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May 7, 2024

Via ECF

Hon. Margaret M. Garnett
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: Green Earth Enterprise LLC v. Sana Benefits, Inc. Index No. 1:24-cv-01852 (MMG); Request for Adjournment of Initial Conference

Dear Judge Garnett,

We are attorneys for Green Earth Enterprise, LLC, plaintiff in this action. We write to respectfully request an adjournment of the initial conference in this action scheduled for May 14, 2024.

The reason for the request is that the defendant, Sana Benefits, Inc., has not appeared in this action. Because it has not appeared, we filed today a request for an entry of a clerk's certificate of default. We request that the initial conference be adjourned *sine die* due to defendant's failure to appear. We intend to proceed with a motion for default judgment following entry of a clerk's certificate of default. Because defendant has not appeared we have been unable to request their consent to this adjournment.

We thank the Court for its attention to this matter.

Application GRANTED. The Initial Pretrial Conference currently scheduled for May 14, 2024, is hereby ADJOURNED *sine die*. The Clerk of Court is respectfully directed to terminate Dkt. No. 12.

Under FRCP 4(h)(1)(A), service of Defendant can be made pursuant to New York law. Pursuant to Section 307 of New York Business Corporation Law, it appears Plaintiff personally served an authorized agent of the New York Secretary of State on April 3, 2024. Dkt. No. 9. On May 9, 2024, putative counsel for Defendant filed a letter contesting the propriety of such service. Dkt. No. 13. Without weighing on the merits of the propriety of service, or any anticipated motion for default judgment, the Court notes that Plaintiff filed its complaint on March 12, 2024 (Dkt. No. 1), and has until June 10, 2024 to complete proper service of Defendant, pursuant to FRCP 4. It is hereby ORDERED that counsel for Defendant file a Notice of Appearance no later than **May 13, 2024**. Counsel's appearance shall in no way prejudice any right to further contest personal jurisdiction and the propriety of service, including by way of a motion to dismiss under FRCP 12.

SO ORDERED. Date: 5/10/2024.


HON. MARGARET M. GARNETT
UNITED STATES DISTRICT JUDGE

Respectfully submitted,

/s/ Joshua S. Androphy

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